

ASSEMBLY BILL

No. 672

Introduced by Assembly Member Harkey

February 21, 2013

An act to amend Section 19591 of, and to repeal Sections 17735, 19513, 19514, and 19515 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 672, as introduced, Harkey. Tax administration: tax clearance certificates.

Existing law requires, for specified estates, a tax clearance certificate issued by the Franchise Tax Board certifying that all taxes have been paid or secured as required by law, before a probate court allows the final account of the fiduciary.

This bill would eliminate the tax clearance certificate requirement and related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17735 of the Revenue and Taxation Code
2 is repealed.
3 ~~17735. In the case of an estate, no deductions shall be allowed~~
4 ~~under Section 661(a) of the Internal Revenue Code with respect~~
5 ~~to amounts attributable and taxable to nonresident beneficiaries if~~
6 ~~the fiduciary fails to obtain a certificate as provided by Section~~
7 ~~19513.~~

1 SEC. 2. Section 19513 of the Revenue and Taxation Code is
2 repealed.

3 ~~19513. (a) If assets of an estate are distributable to one or more~~
4 ~~nonresident beneficiaries, the final account of the fiduciary shall~~
5 ~~not be allowed by the probate court unless the fiduciary obtains~~
6 ~~from the Franchise Tax Board and files with the court a certificate~~
7 ~~to the effect that all taxes, additions to tax, penalties, and interest~~
8 ~~imposed by Part 10 (commencing with Section 17001) or this part~~
9 ~~upon the estate or decedent which have become payable have been~~
10 ~~paid, and that all taxes, additions to tax, penalties, and interest~~
11 ~~which may become due are secured by bond, deposit or otherwise.~~

12 ~~(b) This section only applies if the value of the assets of the~~
13 ~~estate at the death of the decedent and the value of the assets~~
14 ~~distributable to one or more nonresidents exceed amounts~~
15 ~~prescribed by regulations promulgated by the Franchise Tax Board.~~

16 SEC. 3. Section 19514 of the Revenue and Taxation Code is
17 repealed.

18 ~~19514. Within 30 days after receiving a request for a certificate,~~
19 ~~the Franchise Tax Board shall either issue the certificate or notify~~
20 ~~the person requesting the certificate of the amount that shall be~~
21 ~~paid or the amount of bond, deposit, or other security that shall be~~
22 ~~furnished as a condition of issuance of the certificate.~~

23 SEC. 4. Section 19515 of the Revenue and Taxation Code is
24 repealed.

25 ~~19515. The certificate of the Franchise Tax Board does not~~
26 ~~relieve the estate for which the fiduciary acts of liability for any~~
27 ~~amounts which are due and unpaid at the time the certificate is~~
28 ~~issued or which may become due from the decedent or estate after~~
29 ~~the issuance of the certificate. It also does not relieve the fiduciary~~
30 ~~of the liability imposed by Section 19516.~~

31 SEC. 5. Section 19591 of the Revenue and Taxation Code is
32 amended to read:

33 19591. (a) Specialized tax services fees shall be imposed upon
34 the following services provided by the board:

35 (1) Installment payment programs.

36 (2) Expedited services for:

37 (A) Corporation revivor requests.

38 ~~(B) Tax clearance certificate requests.~~

39 ~~(C)~~

40 (B) Tax-exempt status requests.

1 ~~(D)~~

2 (C) Limited partnership revival confirmation letter requests.

3 (b) (1) For periods on or after the effective date of this section
4 and prior to January 1, 2006, the Franchise Tax Board shall publish
5 by notice a schedule of specialized tax services fees to be imposed,
6 which notice shall be exempt from the requirements of Chapter
7 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
8 Title 2 of the Government Code. The amounts of these fees under
9 this paragraph shall be calculated in the same general manner as
10 required under paragraph (2).

11 (2) Commencing on January 1, 2006, the amount of the
12 specialized tax services fees shall be established by the board
13 through regulations adopted pursuant to Chapter 3.5 (commencing
14 with Section 11340) of Part 1 of Division 3 of Title 2 of the
15 Government Code, and shall be established in the manner and in
16 the amounts necessary to reimburse the board for the costs of
17 administering the specialized services, including the board's direct
18 and indirect costs for providing specialized tax services.

19 (3) For periods on or after the effective date of this section, and
20 prior to January 1, 2011, the amount of the specialized tax service
21 fee for limited partnership revival confirmation letter requests shall
22 be one hundred dollars (\$100). Commencing on January 1, 2011,
23 the specialized tax service fee for limited partnership revival
24 confirmation letter requests shall be calculated in the same general
25 manner as required under paragraph (2).

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